

N RE: PETITION FOR SPECIAL HEARING AND ZONING VARIANCE
NS N. Branch Rd. 218' N German Hill Rd. (200 North Branch Rd) 12th Election District 7th Councilmanic District
Larry L. Vandegrift, et ux Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE # 90-84-SPHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a Special Hearing to determine whether a variance can be granted from Section 431(B)(1) of the Baltimore County Zoning Regulations (B.C.Z.R.) and a variance to permit a commercial vehicle over 10,000 pounds to be parked in a residential zone, as more particularly described on Petitioners' Exhibit 1.

The Petitioner, Larry L. Vandegrift, appeared, testified and was represented by S. Eric DiNenna, Esquire. Appearing on behalf of the Petitioner was Mr. Nicholas J. Olaszewski, Jr., Phyllis Friedman, Esquire, representing the Peoples Counsel, and Mr. William J. Roberts appeared as Protestants.

Testimony indicated that the subject property known as 200 North Branch Road is improved with an existing single family dwelling and is zoned D.R. 5.5. The Petitioner has requested, pursuant to a Special Hearing, for a determination that a variance can be granted from Section 431(B)(1) of the (B.C.Z.R.). The Petitioner argued that Section 431 of the B.C.Z.R. is essentially a zoning/parking regulation which is subject to variance, pursuant to Section 307.1. Unlike Section 17-36 of the Baltimore County Code which makes it "... unlawful ... to park a commercial vehicle, ... used for commercial purposes, upon any public road, ... within any residential zone ...", the B.C.Z.R. and Maryland

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case law afford the Zoning Commissioner authority to grant variances where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973); Section 307 of the B.C.Z.R.

In consideration of the above and legal argument presented at the hearing of this matter, it is the Zoning Commissioner's opinion that Section 431(B)(1) is subject to variance and, therefore, the request for Special Hearing should be granted.

The Petitioners also requested a variance from Section 431(B)(1) to permit the parking of a commercial vehicle weighing more than 10,000 pounds in a residential zone on private property. The Petitioner testified that he is desirous of parking his 15,500 pound truck on the aforementioned residential property on a sporadic basis. He testified that he is a full time fireman with Baltimore City and also conducts a trucking business with two employees, for which he is on 24 hour call.

Testimony indicated that the Petitioner is a subcontractor for the Montgomery Trucking Company, who currently lease Petitioner's space to park his vehicle. Mr. Vandegrift stated the need to park his truck behind his home arises out of the need to have access to an electrical hookup for the truck's block heater during the winter months. He also testified that it is more convenient to wash the vehicle at his home rather than at some other facility. The Petitioner stated that he has not parked the truck on his residential property since receiving notice of the alleged violation.

Mr. Olaszewski testified that he is the Petitioner's next door neighbor and that he has no objection to the Petitioner's request.

Mrs. Phyllis Friedman, on behalf of Peoples Counsel, appeared and testified as a Protestant. Mrs. Friedman argued that permitting the Peti-

-2-

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tioner to park a commercial truck in excess of 15,000 pounds in a residential zone is contrary to the spirit and intent of the B.C.Z.R.

Mr. William J. Roberts, a Protestant, testified that he has been a long time resident of this community and he is concerned for the safety of the many children and elderly residents of this neighborhood should the Petitioner's request be granted. He also stated he was concerned that property values would suffer if the Petitioner's request is granted.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

In reviewing the evidence, there is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the requested variance was denied. The testimony presented by the Petitioner was in support of a matter of a preference rather than of the necessity for the variance. The Petitioner has failed to show that compliance would unreasonably prevent the use of the property

ORDER RECEIVED FOR FILING
Date 10/10/89
By [Signature]

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CERTIFICATE OF PUBLICATION

TOWSON, MD., August 18, 1989.

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on August 17, 1989.

THE JEFFERSONIAN,

S. Zeke Orlem
Publisher

PO 15185
reg M31096
ca 90-84-SPHA
price \$43.34

NOTICE OF HEARING
The Zoning Commission of Baltimore County, by authority of the Board of Appeals, will hold a public hearing on the Petition of Larry L. Vandegrift, et ux, for a Special Hearing and Zoning Variance, to determine whether a variance can be granted from Section 431(B)(1) of the Baltimore County Zoning Regulations, to permit a commercial vehicle over 10,000 pounds to be parked in a residential zone, as more particularly described on Petitioners' Exhibit 1, on the subject property known as 200 North Branch Road, Baltimore County, Maryland, at 11:00 A.M. on August 18, 1989, at the County Office Building, 100 North Branch Road, Towson, Maryland 21204. The Petitioner is requested to appear at the hearing and be heard in person or by counsel. The Zoning Commission will, however, consider any request for a stay of the hearing of said petition during the period of said public hearing. Such request must be in writing and filed in this office by the date of the hearing or before or after the hearing.

Larry L. Vandegrift, et ux
Petitioners
100 North Branch Road
Towson, Maryland 21204
August 17, 1989

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CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 12A Date of Posting 8/20/89
Posted for: Special Hearing & Variance
Petitioner: Larry L. Vandegrift, et ux
Location of property: 200 North Branch Rd, 218' N German Hill Rd
200 N. Branch Rd
Location of Sign: Facing N. Branch Rd, across 21' from N. Branch Rd
Remarks: Property of Petitioner
Posted by: [Signature] Date of return: 8/21/89
Number of Signs: 2

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 431(B)(1) to permit a commercial vehicle over 10,000 pounds to be parked in a residential zone.

of the Zoning Regulations of Baltimore County, in the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

To be discussed at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/we do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Larry L. Vandegrift
(Type or Print Name)
Signature: [Signature]
Address: 200 North Branch Road
City and State: Baltimore, MD 21222

Attorney for Petitioner: S. Eric DiNenna, Esquire
(Type or Print Name)
Signature: [Signature]
Address: 200 North Branch Road
City and State: Baltimore, MD 21222
P. O. Box 10508
Towson, Maryland 21285-0508
City and State: Towson, MD 21285-0508, 296-6820
Attorney's Telephone: (301) 296-6820

ORDERED By The Zoning Commissioner of Baltimore County, this 14 day of June, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 8th day of August, 1989, at 11 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore

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PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve and determine that a variance can be granted from Section 431(B)(1) of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/we do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Larry L. Vandegrift
(Type or Print Name)
Signature: [Signature]
Address: 200 North Branch Road
City and State: Baltimore, MD 21222

Attorney for Petitioner: S. Eric DiNenna, Esquire
(Type or Print Name)
Signature: [Signature]
Address: 200 North Branch Road
City and State: Baltimore, MD 21222
P. O. Box 10508
Towson, Maryland 21285-0508
City and State: Towson, MD 21285-0508, 296-6820
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J. Robert Haines
Zoning Commissioner of Baltimore

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ESTIMATED LENGTH OF HEARING - 1/2 HOURS
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER DAYS - NEXT TWO MONTHS
REVIEWED BY: [Signature] DATE 5-23-89

ORDER RECEIVED FOR FILING
Date 10/10/89
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/10/89
By [Signature]

PETITIONER'S EXHIBIT 3

PETITION

We, the undersigned, residents of the immediate area of North Branch Road, strongly support Mr. Vandegrift's request to park his tractor on his property at 200 North Branch Road.

NAME	ADDRESS
<i>Deb Fies</i>	<i>212 N. Branch Rd.</i>
<i>Eugene L. Hines</i>	<i>2407 West Branch Rd.</i>
<i>Walter H. Mice</i>	<i>2411 W. Branch Rd.</i>
<i>Wm. Scott</i>	<i>2402 E. Branch Rd.</i>
<i>Thomas P. Amwed</i>	<i>2403 W. Branch Rd.</i>
<i>Mildred Smith</i>	<i>2400 E. Branch Rd.</i>
<i>Shirley Carson</i>	<i>2405 W. Branch Rd.</i>
<i>Howard Puffenberger</i>	<i>205 N. Branch Rd.</i>

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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

February 9, 1990

Mr. Larry L. Vandegrift
200 North Branch Road
Baltimore, Maryland 21222

RE: Petition for Special Hearing and Zoning Variance
NE N. Branch Rd. 218' N. of an Hill Rd. (200 North Branch Road)
12th Election District
7th Councilmanic District
Larry L. Vandegrift, et ux - Petitioners
Case No. 90-84-SPHA
Violation Case Nos. C-88-2548 & C-88-675

Dear Mr. Vandegrift:

On February 8, 1990, I had the opportunity to discuss the decision rendered by the Zoning Commissioner, J. Robert Haines, with Mr. William J. Roberts of 202 German Hill Road. With no appeal taken in Case No. 90-84-SPHA, the decision is now binding as to the fact that no parking of a commercial vehicle can take place at 200 North Branch Road. Mr. Roberts reported to me that on December 2, 1989 at 4:00 p.m., he had officers Williams and Moore of the Baltimore County Police Department at your residence because of the parking of the commercial vehicle. While I cannot answer as to why Mr. Roberts waited over two months to call this office, I do know that the Baltimore County Zoning Regulations were allegedly violated and this could mean the imposing of monetary fines of \$200.00 per day, per violation.

It is in your best interest to comply with the Zoning Commissioner's Order.

I trust that no further action will be necessary, and if further questions remain, please contact me at 887-3351.

Sincerely,
J. Robert Haines
JAMES H. THOMPSON
Zoning Enforcement Coordinator

JRH:ljs

cc: Mr. William J. Roberts

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PETITIONER(S) EXHIBIT 3



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AUG 16 1989

HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401-1991

August 11, 1989

LOUIS L. DEPAZZO
7TH LEGISLATIVE DISTRICT
COMMITTEE
JUDICIARY

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204

ATTN: Mr. J. Robert Haines

Dear Commissioner Haines,

A constituent, Mr. Jack Roberts, has delivered "A Notice of Hearing", a copy of which is attached hereto.

I would like to express concern about establishing such a precedent in a residential neighborhood which would appear to open the flood gates for every resident of Dundalk who owns a commercial vehicle over ten thousand pounds.

As always, I have full confidence that you will look at this matter very carefully and with the public interest in mind.

Thank you for your kind attention and consideration in this matter.

Respectfully submitted,
Louis L. DePazzo
Louis L. DePazzo
Delegate-7th District
Baltimore County

CC: The Honorable Norman R. Stone
The Honorable Dale T. Volz

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

August 30, 1989

Mr. William J. Roberts
202 German Hill Road
Baltimore, Maryland 21222

RE: Petition for Special Hearing
Case #90-84-SPH
Larry L. Vandegrift, et ux
Hearing date: September 8, 1989 at 11:00 A.M.

Dear Mr. Roberts:

Thank you for your recent letter regarding the above captioned case.

While I appreciate your concerns, I will not postpone the case scheduled for September 8, 1989 at 11:00 A.M. I would suggest that you make every effort to be at the hearing as a Protestant and the issues you raise can be answered at that time.

Very truly yours,
J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mmm
cc: Case File

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Amendment

With above statement of facts on case 9084SP HA Request by this man in violation of this 1987 Council enacted traffic law about trailers tractors, see Cumulative Supplement #1758 Sec. 1736. It will prove this request should not be granted under our County traffic laws. Sir, Mr. Haines of Zoning Commission I request you to postpone this hearing Sept. 8th 1989 for further legal ruling.

Please notify me of your ruling on my request.

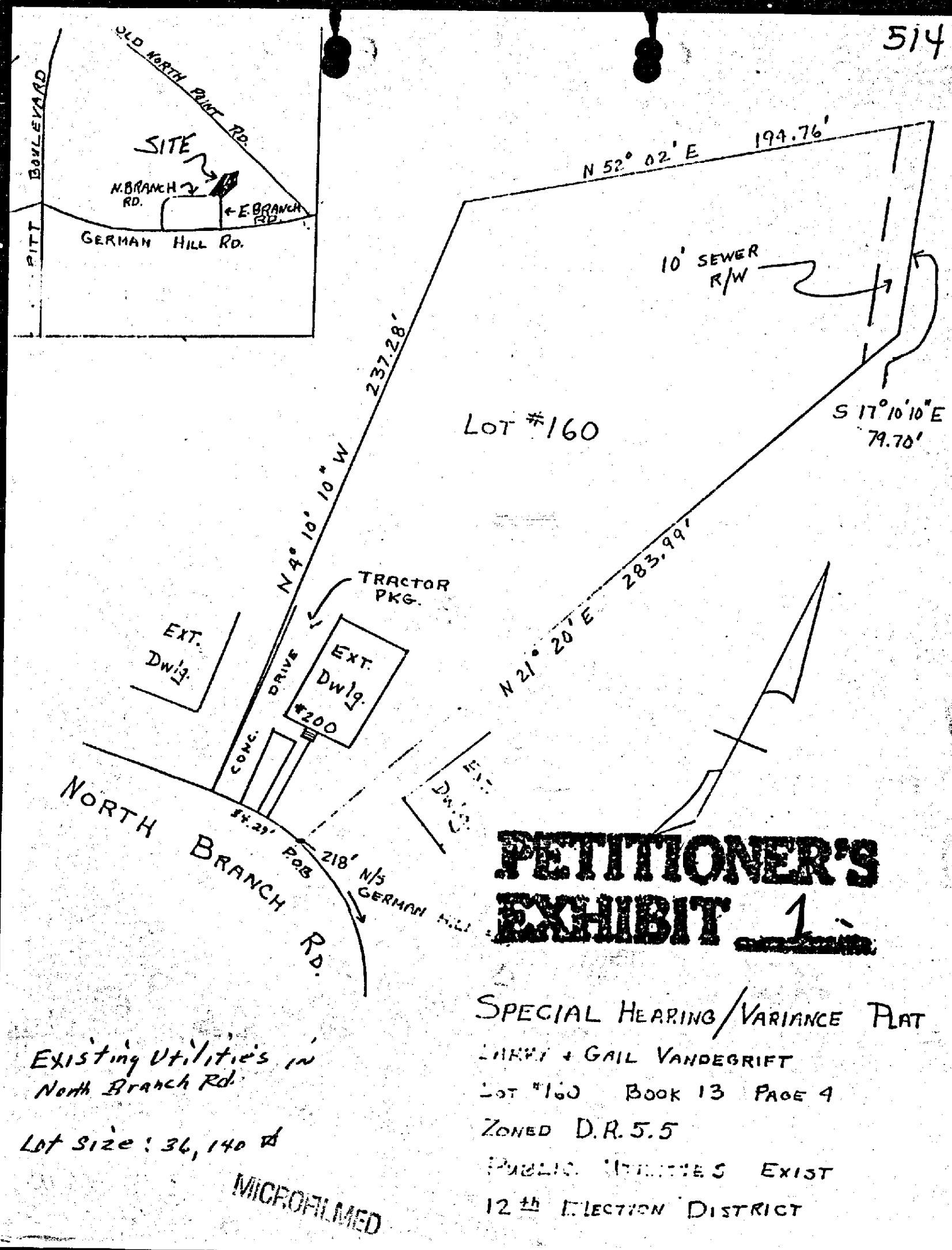
Thanks a million
Jack Roberts

Request to grant him a special permission from this violation of the county zoning law, if you

information a Problem
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AUG 28 1989
ZONING OFFICE

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PETITIONER'S EXHIBIT 1

SPECIAL HEARING/VARIANCE PLAT
LARRY & GAIL VANDGRIFT
Lot #160 Book 13 Page 4
Zoned D.R.5.5
PUBLIC UTILITIES EXIST
12th ELECTION DISTRICT

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514 7-8-89

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

DATE: September 1, 1989

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Larry L. Vangegrist, et ux
Zoning Petition No. 90-84-SPHA

The petitioner requests a special hearing and a variance to determine that a variance can be granted from Section 431(B)(1) of the Baltimore County Zoning Regulations and to permit the parking of a commercial vehicle over 10,000 pounds in a residential zone. In reference to this request, staff offers the following comments;

- (Bill No. 70, 1988) was recently enacted by the Baltimore County Council. This legislation clearly prohibits the storage of commercial vehicles exceeding 10,000 pounds.
- The vehicle in question is the tractor portion of a tractor trailer type vehicle and its weight exceeds 3/4 tons or 10,000 pounds.
- Access to this site is from German Hill Road, a 24 foot wide road with signs posted that restrict thru truck traffic to 3/4 tons or 10,000 pounds.
- Section 307.1 states that the Zoning Commissioner has the power to grant variances from height and area regulations, from off-street parking regulations and from sign regulations. The petitioner's request is not in keeping with this section since relief is being requested for a particular accessory use.
- Staff opposes any commercial intrusion into residential communities and feels that the granting of the petitioner's request would set a dangerous precedent.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

2K/JL/sf

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SEP 04 1989

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

RECEIVED
AUG 3 1989 July 24, 1989

ZONING OFFICE

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Dennis F. Rasmussen
County Executive

Item #514
Property Owner:
Location:

Existing Zoning:
Proposing Zoning:

Area:
District:

Dear Mr. Haines:

The Bureau of Traffic Engineering recommends against the requested variance to permit large trucks in a residential area. Residential streets are not intended for use by large trucks.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lab

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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 22, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for June 13, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 493, 514, 517, 520, 521, 522, 524, 528, 529, 531, and 532.

For Item 511, the minimum panhandle width for one lot is 20 feet, not 10 feet as shown on the plan.

For Items 513, 516 and 533 the previous County Review Group Comments still apply.

For Item 519, all lots must have in-fee frontage to a public road.

For Item 530, comments are attached

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Encl.

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Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

Paul H. Rainco
J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

JUNE 14, 1989

RE: Property Owner: LARRY L. VANDERGRIFT

Location: #200 NORTH BRANCH ROAD

Item No.: 514 Zoning Agenda: JUNE 13, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *John Kelly* 6-15-89
Planning Group
Special Inspection Division

Noted and Approved *Capt Wm Budge*
Fire Prevention Bureau

JK/KER

JUN 19 1989